

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1001 of 1997

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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RAMESH BADLANI

Versus

PRESIDENT

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Appearance:

MR MR GEHANI for Petitioner

MR VC DESAI for Respondent No. 1

DS AFFI. NOT FILED for Respondent No. 3

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CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 18/09/97

ORAL JUDGEMENT

The petitioner is a qualified Doctor. Under order dated 29th August, 1996, the petitioner was appointed as a Physician under the respondent-Municipality on conditions, interalia, that -  
(a) his appointment was temporary for a period of one

year; and (b) the appointment was terminable at any time without notice. Before the expiry of the term of his appointment, under order dated 28th January, 1997, the petitioner's service was terminated as being unsatisfactory. Feeling aggrieved, the petitioner preferred the present petition. By an order made on 31st January, 1997, this court (Coram : Mr. Justice M.R. Calla) directed Rule nisi to issue and stayed the further operation of the order dated 28th January, 1997 terminating the service of the petitioner from 1st February, 1997. In view of the said ad-interim order, I am informed, the petitioner was continued in service as a Physician and has been paid his due salary.

Learned advocate Mr. Gehani has appeared for the petitioner and has submitted that the impugned order of termination casts stigma upon the petitioner and that the said order was punitive in nature. He has, therefore, submitted that it was imperative for the respondent-Municipality to hold an inquiry against the petitioner before termination of his service.

The President of the respondent-Municipality has made a counter-affidavit. Learned advocate Mr. Desai has appeared for the respondents and has contested the petition.

Be it noted that the petitioner was appointed for a period of one year only. The petitioner has joined duty on 4th September, 1996 and, thus, his term of appointment has expired on 3rd September, 1997. In view of the ad-interim order made by this court, the petitioner has continued in service till the expiry of his term of appointment. Since 4th September, 1997, the relationship of master and servant between the petitioner and the present respondents has been severed on account of efflux of time. The petition has, thus, become infructuous. The matters at issue in this petition have, thus, become academic. I need not decide the same.

Petition is, therefore, dismissed. Rule is discharged. Ad-interim order is vacated. The parties shall bear their own costs. Learned advocate Mr. Gehani appearing for the petitioner requests that he be given time to prefer an appeal against this order. Since the term of appointment of the petitioner has expired on 3rd September, 1997 as aforesaid, the question of grant of further time does not arise. Request is, therefore, rejected.

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JOSHI